

Maine Revised Statutes
Title 38: WATERS AND NAVIGATION
Chapter 24: SOLID WASTE MANAGEMENT AND
RECYCLING HEADING: PL 1995, c. 465, Pt. A, §26 (rpr

§2213. ISSUANCE OF REVENUE OBLIGATION SECURITIES

1. Notice of intent to issue bonds; actions to contest validity. The agency may provide, at one time or from time to time, for the issuance of revenue obligation securities of the agency for the purposes authorized in this chapter. No revenue obligation securities of the agency may be issued until:

A. The project has been determined to be consistent with the state plan pursuant to section 1310-AA, if applicable, and the necessary permits have been obtained from the department; [1995, c. 465, Pt. A, §78 (AMD); 1995, c. 465, Pt. C, §2 (AFF).]

B. A notice of the intent of the agency to issue the securities is published at least once in a newspaper of general circulation in the region in which the project is to be located:

- (1) No later than 14 days after the date on which the agency decides to issue revenue obligation securities under this subchapter;
- (2) Describing the general purpose or purposes for which the securities are to be issued;
- (3) Stating the maximum principal amount of the proposed securities; and
- (4) Including a statement as to the time within which any petition to contest the issuance of the securities must be commenced. [1989, c. 585, Pt. A, §7 (NEW); 1989, c. 869, Pt. A, §16 (AMD).]

Any action or proceeding in any court to contest the issuance of the securities must be started within 30 days after the date of the publication required by paragraph B and otherwise shall be governed by Title 5, chapter 375, subchapter VII. For the purposes of this subchapter and the Maine Administrative Procedure Act, Title 5, chapter 375, the later date of newspaper publication required by paragraph B shall constitute the final agency action with respect to the issuance of the securities. After the expiration of the 30-day period of limitation, no right of action or defense founded upon the invalidity of the issuance of the securities may be opened to question in any court upon any grounds.

[1995, c. 465, Pt. A, §78 (AMD); 1995, c. 465, Pt. C, §2 (AFF) .]

2. Treasurer of State as agent. The Treasurer of State shall, at the direction of the agency, act as the agency's agent for the sale and delivery of revenue obligation securities and anticipatory notes. The Treasurer of State shall assist the agency in the preparation, issuance, negotiation and sale of the securities and notes and provide reasonable advice and management assistance. The agency may employ further counsel or assistants or act in its own behalf, provided that the sale and delivery of revenue obligation securities and anticipatory notes shall be carried out at the agency's direction with and through the Treasurer of State.

[1989, c. 585, Pt. A, §7 (NEW) .]

3. Conclusive authorization. All revenue obligation securities of the agency shall be conclusively presumed to be fully authorized and issued under the laws of the State, and any person or governmental unit shall be estopped from questioning their authorization, sale, issuance, execution or delivery by the agency.

[1989, c. 585, Pt. A, §7 (NEW) .]

4. Maturity; interest. The securities of each issue of revenue obligation securities shall be dated, mature at a time or times not exceeding 20 years from the date of the securities and bear interest at a rate or rates determined by the agency. At the option of the agency, the securities may be made redeemable before maturity at a price or prices and under terms and conditions fixed prior to issuance.

[1989, c. 585, Pt. A, §7 (NEW) .]

5. Form. The agency shall determine the form of the securities, including any attached interest coupons, the manner of execution of the securities, the denomination or denominations of the securities and the place or places for payment of principal and interest, which may be at any financial institution within or without the State. Revenue obligation securities shall be executed in the name of the agency by the manual or facsimile signature of the authorized official or officials. Any attached coupons shall be executed with the manual or facsimile signature of the authorized official or officials. Signatures and facsimiles of signatures on securities and coupons are valid for all purposes even if the authorized official ceases to hold office before delivery of the securities. The securities may be issued in coupon or registered form or both as the agency may determine. Provision may be made for the registration of any coupon securities to principal alone and to both principal and interest, and for the reconversion into coupon securities of any securities registered to both principal and interest. In addition to this subsection, the agency may provide for transfer of registration of the agency's registered revenue obligation securities by book entry on the records of the entity designated for that purpose and may enter into such contractual arrangements as may be necessary to accomplish these purposes. In the event a book entry method of transfer is used, principal of and interest on those registered securities shall be payable to the registered owner shown in the book entry, the owner's legal representatives, successors or transferees.

[1989, c. 585, Pt. A, §7 (NEW) .]

6. Sale. The agency may sell the securities at a public or private sale, in a manner and at a price the agency determines to be in the best interest of the agency. The agency shall not sell the securities to any firm, partnership, corporation or association, including an affiliate or subsidiary, which is a party to any contract pertaining to the financed project or which is to rent, purchase, lease or otherwise occupy premises constituting part of the project. The agency may sell the securities to a seller of the project if the project is to be used and operated by a 3rd party.

[1989, c. 585, Pt. A, §7 (NEW) .]

7. Proceeds. The proceeds of each issue shall be used solely for the authorized purposes and shall be disbursed as provided in the securing trust agreement or other document. Administration costs incurred by the agency under this program may be drawn from those proceeds. If the proceeds are less than the cost of the project, by error in the estimate or otherwise, additional securities may be issued in a like manner to provide the amount of the deficit and, unless otherwise provided in the securing trust agreement or other document, the additional securities are deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the securities first issued for the same purpose. The agency may place limits or restrictions on the issuance of additional revenue obligation securities through the securing trust agreement or other document. The agency may provide for the replacement of mutilated, destroyed or lost securities. Revenue obligation securities may be issued under this subchapter without obtaining the consent of any department, division, commission, board, bureau or agency of the State and without any other proceedings or the occurrence of any conditions or things other than those proceedings, conditions or things which are specifically required by this subchapter. Notwithstanding any of the other provisions of this subchapter, or of any recitals in any securities issued under this subchapter, all such securities are deemed to be negotiable instruments issued under the laws of this State.

[1989, c. 585, Pt. A, §7 (NEW) .]

8. Credit not pledged. Except as provided in this subsection, securities issued under this subchapter shall not constitute any debt or liability of the State or of any municipality in the State or any political subdivision of the State, or of the agency or a pledge of the faith and credit of the State or of any such municipality or political subdivision, but shall be payable solely from the revenues of the project or projects for which the securities are issued or from other eligible collateral or the revenues or proceeds of other eligible collateral pledged to the payment of the revenue obligation securities and all such securities shall contain on the securities' face a statement to that effect. The issuance of securities under this subchapter shall not directly or indirectly or contingently obligate the State or any municipality or political subdivision to levy or to pledge any form of taxation whatever or to make any appropriation for payment.

[1989, c. 585, Pt. A, §7 (NEW) .]

9. Anticipatory borrowing. In anticipation of the sale of securities under this article, the agency may issue temporary notes and renewal notes, the total face amount of which does not exceed at any one time outstanding the authorized amount of the securities. The period of anticipatory borrowing shall not exceed 3 years and the time within which the securities are to become due shall not be extended by the anticipatory borrowing beyond the term permitted by law.

[1989, c. 585, Pt. A, §7 (NEW) .]

10. Environmental protection. Revenue obligation securities of the agency may not be issued for a project until the commissioner certifies to the agency that all licenses required by the department with respect to the project are issued or that none are required. Any subsequent enlargement or addition to the project for which approval is sought from the agency requires certification by the commissioner.

[1989, c. 585, Pt. A, §7 (NEW); 1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §295 (AMD) .]

SECTION HISTORY

1989, c. 585, §A7 (NEW). 1989, c. 869, §A16 (AMD). 1989, c. 890, §§A40,B295 (AMD). 1995, c. 465, §A78 (AMD). 1995, c. 465, §C2 (AFF).

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